

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9500

NEW YORK, NY

LOS ANGELES, CA

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

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AFFILIATE OFFICES

BANGKOK, THAILAND

JAKARTA, INDONESIA

MANILA, THE PHILIPPINES

MUMBAI, INDIA

TOKYO, JAPAN

FACSIMILE

(202) 955-9792

DIRECT LINE (202) 955-9893

E-MAIL: JLongworth@KelleyDrye.

June 19, 2000

VIA FACSIMILE

Jere W. Glover
Chief Counsel for Advocacy
Small Business Administration
409 Third Street, S.W.
Washington, D.C. 20416

Re: Advocacy's Vital Role In The Rulemaking Process

Dear Jere:

Clifford Harvison, President and the National Tank Truck Carriers, Inc., and I were discussing the invaluable role your office played in negotiating an acceptable outcome to the U.S. Environmental Protection Agency's ("EPA") Transportation Equipment Cleaning Industry Effluent Limitation Guideline ("TECIELG") rulemaking and he asked me to share our thoughts with you.

There is no doubt in our minds that the Federal Government's rulemaking processes are significantly better and more efficient because of your office's independence and perseverance. Without Kevin Bromberg's hard work and insistence that EPA justify with some credible evidence an otherwise unnecessarily and overly-protective proposed rulemaking, the tank truck industry would be burdened with effluent limits that are unachievable and, even if achievable, would not generate environmental benefits.

In 1998, EPA proposed a strict, command-and-control rule, creating effluent limitations for discharges of treated water generated by cleaning the insides of tank trucks. These discharges already are regulated effectively by other EPA rules (e.g., the Pretreatment Program). At significant cost to the industry, NTTC provided hundreds of pages of comments to EPA to identify errors in the Agency's analyses and to justify the industry's continued reliance on best management practices ("BMPs").

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While EPA conceded certain issues, it intended to develop ELG limits for tank truck cleaning operations despite overwhelming evidence to the contrary. However, once Advocacy became involved, EPA could no longer ignore key issues and it was forced to defend its proposal to the Office of Management and Budget ("OMB"). The proposed rulemaking unraveled and EPA became obligated to establish a BMP alternative strongly supported by the industry and key stakeholders, including the Association of Metropolitan Sewerage Agencies (locally-owned treatment works).

The Founding Fathers created our federal government based on a theory of checks and balances. Your office epitomizes that ideal. Without Advocacy's independence and watchful eye, the TECI ELG rule would have resulted in protracted litigation. We believe that a federal court would have remanded the rule to EPA. Your office's involvement cut years and many dollars off that process. The federal government needs more offices that can help achieve such results.

Finally, NTTC recognizes that your office does not have the budget to review every rulemaking with the requisite thoroughness to ensure similar results. That is a shame and a problem that should be rectified by Congress. Judging from the TECI ELG rule, your office truly is a wise investment. In fact, Congress should increase your funding to allow your involvement in all appropriate rulemakings. Fully funding your office ought to be a high priority.

Thanks again for your professionalism and diligence. If you have any questions, please call.

Very truly yours,

KELLEY DRYE & WARREN LLP

By 
Jeffrey S. Longworth

JSL:lt

cc: Kevin Bromberg
Clifford Harvison